

BOARD OF COUNTY COMMISSIONERS - LAND USE HEARINGS

JANUARY 15, 2008

Land Use Public Hearings were held at the Murdock Administration Complex in Room 119, Port Charlotte, Florida. The following members were present: Chairman D'Aprile, Commissioner Moore, Commissioner Cummings, and Commissioner Loftus. Also in attendance were Assistant County Attorney Browne, County Administrator Loucks, Executive Assistant Dillon, and Deputy Clerk Lansing. The following members were absent: Commissioner Duffy. The meeting was called to order at 9:00 AM followed by the Pledge of Allegiance. (Proofs of Publication were in order.)

Changes to the Agenda

COMMISSIONER MOORE MOVED TO APPROVE CHANGES TO THE AGENDA:  
ADDITION # 1: COUNTY ATTORNEY, AGENDA ITEM Z-1, AUTHORIZE THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS AND THE EX-OFFICIO OF THE MURDOCK VILLAGE CRA TO EXECUTE THE FIRST AMENDMENT TO AGREEMENT FOR DISPOSITION OF PROPERTY WITHIN THE MURDOCK VILLAGE COMMUNITY REDEVELOPMENT AREA, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

I. County Attorney, Agenda Item Z-1, Authorize the Chairman of the Board of County Commissioners and the Ex-Officio of the Murdock Village CRA to execute the First Amendment to Agreement for Disposition of Property within the Murdock Village Community Redevelopment Area.

Janette Knowlton explained the reason for the 45-day extension and requested approval.

COMMISSIONER MOORE MOVED TO APPROVE FIRST AMENDMENT TO AGREEMENT 2007-062, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

A. Planning and Zoning Agenda

1. Z-07-10-63 Quasi-Judicial Commission District II  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Multi-family 15 (RMF-15) to Planned Development (PD), for property located south of Rio Togas Road, north of Peppercorn Road, west of Burnt Store Road, and east of Nutmeg Road, in the Punta Gorda area, Florida, containing 2.93± acres; Commission District II; petition No. Z-07-10-63; applicant Michael Nazarian, c/o The Atrium.

Recommendation: Community Development Department: Approval with conditions  
Planning and Zoning Board: Approval with conditions

Jie Shao stated the Applicant withdrew Petition Z-07-10-63 prior to this meeting.

(Deputy Clerk Lansing administered the oath to prospective witnesses for all quasi-judicial petitions.) (Chairman D'Aprile polled the Board for ex-parte disclosures. All Commissioners including Chairman D'Aprile indicated ex-parte disclosures for A-2.)

2. PA-07-10-66 Legislative Commission District III  
An Ordinance pursuant to Section 163.3187(1)(C), Florida Statutes, adopting a Small Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan from Low Density Residential to Commercial Corridor, for property located at 2073 Panama Boulevard, in the Englewood area, containing 0.25± acre; Commission District III; Petition No. PA-07-10-66; applicant: Hidden Cove, LLC.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

Planner II Jie Shao summarized the proposed Ordinance amending the Charlotte County Zoning Atlas from Residential Multi-family 15 (RMF-15) to Planned Development (PD) for 2.93 ± acres; and stated that Item 3 is a companion to Item 2.

Attorney Rob Bernsson provided detailed history of the property; discussed zoning changes; opined the need for marinas;

announced the Petitioner had agreed to amend petition to Commercial Tourist (CT) from Commercial Intensive (CI); spoke in favor of the proposed Ordinance; advised all departments recommended approval and requested endorsement from the Board.

**Commissioner Moore** asked if CT zoning would allow construction of vertical storage. Mr. Bernsson advised it would allow for all uses of a marina.

Eugene Pope spoke against the Ordinance; represented eight additional residents who also object; summarized and provided a copy of a 50 year old Deed Restriction; opined approval will drive residents out and cause future commercial to increase; requested Board denial.

Phil Stedman spoke against the approval of this Ordinance; noted all residents provided opposition letters; expressed concern that if approved, commercial will increase; requested the Board reject the Petitions.

**COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.**

**Motion Carried 4:0.**

**ABSENT: Commissioner Duffy.**

Attorney Bernsson countered in favor of the Petition; stated the County is in great need of marinas; noted the compromise from CI to CT; and again asked for the support of the Board.

Ms. Shao addressed the Board in response to resident comments and discussed minimum CT set backs and buffers.

Attorney Bernsson indicated the differences in CT and PD zoning set backs; discussed buffers; and re-explained his earlier response to **Commissioner Moore** as related to zoning and set backs.

**Commissioner Cummings** and **Commissioner Loftus** asked Attorney Bernsson several questions on present and proposed height restrictions, road and water set backs and adjoining property issues. Attorney Bernsson responded.

**Chairman D'Aprile** opined everyone wants the same thing; stated people would accept PD buffers for more protection, but PD

restrictions would limit the Petitioner; suggested a possible compromise might satisfy both sides; and asked for input from Staff.

Growth Management Director Jeff Ruggieri agreed with **Chairman D'Aprile**; stated present PD Codes are strict; advised revised PD Codes should be released in March; opined if new Code was now in place it would allow flexibility.

**Chairman D'Aprile** asked the Board if they would consider delaying the decision until after the laws are changed on the PD. Attorney Bernsson interjected he and Ms. Shao discussed the subject last month; already agreed to reduce uses by changing from CI to CT; and again asked for the Board's approval.

**Commissioner D'Aprile** stated his objective, thanked Attorney Bernsson for his input and asked for Commissioner questions.

**Commissioner Cummings** questioned codes, zoning and buffers for current land use vs. future land use. Attorney Bernsson and Mr. Ruggieri responded.

Attorney Bernsson announced on the record that his client would be willing to voluntarily provide a buffer to avoid any code enforcement.

Mr. Ruggieri stated that complying with the buffer is only the beginning; applicant would need to be aware of other issues such as parking and drainage and confirmed the authority to require buffering, parking and drainage for the current actively.

**Commissioner Loftus** expressed concern for the residents; opined the need to promote marina activity; supported PD negotiations instead of CT.

**Commissioner Moore** questioned the number of cars and boats presently kept on the property. Attorney Bernsson answered. Petitioner Jack Boyer previously sworn in, stated he had parked there for 17 years, advised it provides access to Little Gasparilla Island; stated he had a lot of money invested; and the intention is to only build a small office for his utility, provide islanders with Gulf access and parking.

Commissioner Cummings pointed out this unique parcel has a marina, public parking and access to the gulf in a residential area. Commissioner Cummings opined public interest is being met, if done properly, it could be an asset to all; opined a PD would not be practical for the size of the parcel; and is inclined to approve the application.

Commissioner D'Aprile asked Commissioner Cummings for a motion.

COMMISSIONER CUMMINGS MOVED TO APPROVE STAFF'S RECOMMENDATION AND THE PROPOSED ORDINANCE, SECONDED BY COMMISSIONER MOORE.

Chairman D'Aprile voiced his opposition of the motion.

Commissioner Moore asked Chairman D'Aprile if the Applicant had already turned down the chance to delay and be considered under a PD. Chairman D'Aprile confirmed the Applicant had.

Motion Failed 2:2.

Chairman D'Aprile and Commissioner Loftus opposing.

ABSENT: Commissioner Duffy.

Mr. Ruggieri requested Board approval to waive the PD fee should the applicant bring it back as a PD. Chairman D'Aprile granted Board approval for the record, asked Staff to support less restrictive set backs and expedite this application in a timely manner.

Attorney Bernsson asked the Board not to encourage Code Enforcement to issue a violation today to allow the applicant time to research their options.

3. Z-07-10-67 Quasi-Judicial Commission District III  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial Tourist (CT), for property located at 2073 Panama Boulevard, in the Englewood area, containing 0.245± acre; Commission District III; Petition No. Z-07-10-67; applicant: Hidden Cove, LLC.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

Attorney Bernsson withdrew Petition Z-07-10-67.

4. PA-07-09-52 Legislative Commission District V  
Pursuant to Section 163.3184(1) (C), Florida Statutes, adopting a Small Scale Future Land Use Map Amendment to the Charlotte County Comprehensive Plan amending the Charlotte County Future Land Use Map from Coastal Residential, Commercial Tourist, and Neighborhood/Residential to Parks and Recreation for property on the south side of Bayshore Road from Pinion Street to Laura Street in the Port Charlotte area; containing 9.51± acres; Commission District V; Petition No. PA-07-09-52; applicant: Charlotte County Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

Planner II Jeffrey Crimer summarized proposed Ordinance Number 2008-004.

Chairman D'Aprile polled the Board for ex-parte disclosures for 4. PA-07-09-52 and companion 5. Z-07-09-53 and there were none.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2008-004, SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

5. Z-07-09-53 Quasi-Judicial Commission District V  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Coastal Residential-3.5 units per acre (CR3.5), Commercial Tourist (CT), and Neighborhood/Business Residential (NBR) to Residential Single-family (RSF-1), for property on the south side of Bayshore Road from Pinion Street to Laura Street in the Port Charlotte area; containing 9.51± acres; Commission District V; Petition No. Z-07-09-53; applicant: Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

Mr. Crimer summarized proposed Ordinance Number 2008-005.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED  
BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

COMMISSIONER MOORE MOVED TO APPROVE ORDINANCE 2008-005, SECONDED  
BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

6. Z-07-09-54 Quasi-Judicial Commission District II  
An Ordinance approving an amendment to the Charlotte County  
Zoning Atlas from Commercial General (CG), Industrial Light  
(IL), Residential Multi-family 12 (RMF-12), and Residential  
Multi-family 10 (RMF-10) to Residential Single-family 1  
(RSF-1), for property located at 670 Cooper Street, in the  
Punta Gorda area, Florida, containing 84± acres; Commission  
District II; Petition No. Z-07-09-54; applicant Charlotte  
County Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

Chairman D'Aprile polled the Board for ex-parte disclosures and  
there were none.

Ms. Shao summarized proposed Ordinance Number 2008-006.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED  
BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2008-006,  
SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

**RECESS: 10:05 AM - 10:15 AM**

7. Z-07-09-55 Quasi-Judicial Commission District III  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Commercial General (CG) to Residential Single-family 1 (RSF-1), for property located at 100 Rotonda Boulevard E, in the Rotonda area, Florida, containing 32± acres; Commission District III; Petition No. Z-07-09-55; applicant Charlotte County Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

**Chairman D'Aprile** polled the Board for ex-parte disclosures and there were none. **Commissioner Moore** was not present, but will be asked upon his return.

Ms. Shao summarized proposed Ordinance Number 2008-007.

**COMMISSIONER LOFTUS MOVED TO APPROVE ORDINANCE 2008-007, SECONDED BY COMMISSIONER CUMMINGS.**

**Motion Carried 3:0.**

**ABSENT: Commissioner Duffy.**

8. Z-07-09-56 Quasi-Judicial Commission District III  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Agriculture Estates (AE) to Environmentally Sensitive (ES), for property located South of S McCall Road (SR 776), North of Oyster Creek, east of Placida Road (CR 775), and west of San Casa Drive, in the Englewood area, Florida, containing 141.513± acres; Commission District III; Petition No. Z-07-09-56; applicant Charlotte County Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

**Chairman D'Aprile** polled the Board for ex-parte disclosures and there were none.

Ms. Shao provided an overview of proposed Ordinance 2008-008.

COMMISSIONER CUMMINGS MOVED TO CLOSE THE PUBLIC HEARING,  
SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2008-008,  
SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

Chairman D'Aprile polled Commissioner Moore for ex-parte disclosures for Items 7 and 8 and there were none.

9. Z-07-10-64 Quasi-Judicial Commission District III  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Multi-family 10 (RMF-10) to Mobile Home Park (MHP), for property located north of Anglers Way, east and west of Eagle Drive, and south of El Sol Road, in the Gasparilla Mobile Home Park, in the Placida area, containing 1.730± acres; Commission District III; Petition No. Z-07-10-64; applicant: Charlotte County Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

Planner III Matthew T. Trepal summarized proposed Ordinance Number 2008-009.

Chairman D'Aprile polled the Board for ex-parte disclosures and there were none.

COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2008-009,  
SECONDED BY COMMISSIONER MOORE.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

10. Z-07-10-65 Quasi-Judicial Commission District IV  
An Ordinance approving an amendment to the Charlotte County Zoning Atlas from Residential Single-family 3.5 (RSF-3.5) to Commercial General (CG), for property located along Red Bay Terrace, southwest of Tamiami Trail (U.S. 41) and northeast of Crestview Waterway, in the Port Charlotte area, containing 5.241± acres, Commission District IV; Petition No. Z-07-10-65; applicant: Charlotte County Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: Approval

Chairman D'Aprile polled the Board for ex-parte disclosures and there were none.

Mr. Trepal summarized proposed Ordinance Number 2008-010.

COMMISSIONER LOFTUS MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER CUMMINGS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

COMMISSIONER CUMMINGS MOVED TO APPROVE ORDINANCE 2008-010, SECONDED BY COMMISSIONER LOFTUS.

Motion Carried 4:0.

ABSENT: Commissioner Duffy.

11. PA-07-12-94-LS Legislative County-wide  
Pursuant to Section 163.3184(3), Florida Statutes, transmit a Large Scale Plan Amendment to the Department of Community Affairs for an Objections, Recommendations, and Comments report, adding a Water Supply section to the Infrastructure Element of the 1997-2010 Comprehensive Plan; Petition No. PA-07-12-94-LS; applicant Charlotte County Board of County Commissioners.

Recommendation: Community Development Department: Approval  
Planning and Zoning Board: To be heard on January 14, 2008

Mr. Trepal advised the purpose of the amendment and introduced Utility Director Jeff Pearson and Consultant Shandra Newmister.

Mr. Pearson provided the Board with a handout amending the Comprehensive Plan; advised to expect additional changes; and explained time line requirements.

Ms. Newmister provided a visual presentation and overview of proposed updates; summarized CCU Capital Improvement Projects; discussed Population and Water Demand Projections; Current and Future Land Use Impacts, Adequacy of Existing Water Facilities; Water Supply Projects; 5-Year CIP Plan; Goals, Objective, Policies; and Schedule.

**Commissioner Loftus** voiced his concern the documents he received have strike throughs, deletions and additions; questioned adopted minimum wastewater standards and usage percentages; commented he is unhappy with the presentation and would like to see this delayed.

Bruce Loucks advised changes can still be made since this Amendment will come back to the Board for final adoption on April 15, 2008. **Commissioner Loftus** replied he doesn't want this document presented to DCA until it is in final form.

Ms. Newmister addressed the Commissioners concerns, explained there were clerical errors, confirmed wastewater consumption and the level of service figures are accurate.

**Commissioner Loftus** indicated he was still not satisfied; had a problem with the concurrent figures being used; requested additional detailed information and corrections be made prior to his approval.

**Commissioner Moore** expressed his concern with definitions used to define average and peak usage; opined residents can be misled on conservation; asked if other counties use the same terms.

Ms. Newmister stated standard utility terminology was used, advised the county is doing an exceptional conservation job; noted usage is well below current and future water use guidelines; and reported other counties are using the same dialect.

Mr. Loucks asked for clarification of language describing the new septic tank standards initiated by the Health Dept. for the

Manchester Locks area. Ms. Newmister advised the Ordinance was adopted by reference only.

**Commissioner Cummings** opined the issue is distinguishing average vs. peak demand. Ms. Newmister stated language could be inserted to address the concerns of the Board. **Commissioner Cummings** suggested looking at longer term trends to determine the average daily usage before making a decision.

**Commissioner Loftus** stated the language must be included and expressed concerns for the trend line that shows a reduction.

Assistant County Administrator Shoemaker replaced County Administrator Loucks on the Dias.

**COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.**

Motion Carried 4:0.

**ABSENT: Commissioner Duffy.**

**COMMISSIONER CUMMINGS MOVED TO APPROVE TRANSMITTAL OF PETITION NO. PA-07-12-94-LS TO THE DEPARTMENT OF COMMUNITY AFFAIRS FOR AN OBJECTIONS, RECOMMENDATIONS, AND COMMENTS REPORT, SECONDED BY COMMISSIONER MOORE.**

Motion Carried 4:0.

**ABSENT: Commissioner Duffy.**

12. PV-07-09-13 Legislative Commission District I

Capstone Group, Inc. has applied to vacate a parcel in Jackson and Seward's Addition to Charlotte Harbor, as recorded in Plat Book 1, Page 21, as recorded in the Public Records of Charlotte County, Florida, and a portion of Sibley's Central Addition to Charlotte Harbor as recorded in Plat Book 1, Page 2, of the Public Records of Charlotte County, Florida, more specifically being a part of Lot 1, Block 4 of Jackson and Seward's addition to Charlotte Harbor and all of Block 4, including the alley therein, Sibley Street, Jotoma Lane (Gasparilla Street) and Lots 1 thru 6 of Block 3 of said plat entitled Sibley's Central Addition to Port Charlotte, lying south of Harborview Drive (State Road 776), northeast of U.S. Highway 41, and north of Nome Avenue (North Avenue); less and except the right of way for Harborview Drive and US Highway 41, as recorded in OR Book

1908, Page 1380 of the Public Records of Charlotte County, Florida, in Commission District I.

Recommendation: Community Development Department: Approval with conditions Planning and Zoning Board: Approval with one condition

Barbara Jefferys summarized proposed Resolution Number 2008-003.

**Commissioner Moore** questioned the fate of a building on the proposed plat. Attorney Bernsson outlined the proposed plat and advised the change will not affect the building.

**Commissioner Cummings** asked for additional vacation detail, questioned the number of proposed owners; expressed concern that more access points could be added to the parcel in the future; and asked for an access point limit guarantee.

Attorney Bernsson explained the vacation in detail; advised there will be two property owners; suggested adding a condition limiting access points after plat vacation is completed.

**Commissioner Cummings** agreed to documented assurance and opined that less access points would provide public benefit.

Attorney Bernsson advised the new condition language would require Public Works endorsement and the Board was in agreement.

**COMMISSIONER MOORE MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY COMMISSIONER LOFTUS.**

Motion Carried 4:0.

**ABSENT: Commissioner Duffy.**

**COMMISSIONER LOFTUS MOVED TO APPROVE RESOLUTION 2008-003 WITH TWO CONDITIONS, SECONDED BY COMMISSIONER MOORE.**

Motion Carried 4:0.

**ABSENT: Commissioner Duffy.**

**Chairman D'Aprile** stated for the record his opposition concerning Babcock Ranch for the Regional Planning Council hearing. **Commissioner Loftus** and **Commissioner Moore** both agreed.

ADJOURNED: 11:12

Signature on file Commission Minutes  
Chairman

ATTEST:

BARBARA T. SCOTT, CLERK  
OF THE CIRCUIT COURT AND  
EX-OFFICIO TO THE BOARD  
OF COUNTY COMMISSIONERS

By: Signature on file in Commission Minutes  
Deputy Clerk

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